

Department of Veterans Affairs

§ 14.801

permissible under State law, the Regional Counsel may accept, without objection, a lesser degree of protection approved by the court when it is determined that such action will adequately protect the beneficiary's estate.

[42 FR 41422, Aug. 17, 1977, as amended at 71 FR 28586, May 17, 2006]

TESTIMONY OF DEPARTMENT PERSONNEL AND PRODUCTION OF DEPARTMENT RECORDS IN LEGAL PROCEEDINGS

SOURCE: 59 FR 6566, Feb. 11, 1994, unless otherwise noted.

§ 14.800 Purpose.

Sections 14.800 through 14.810 establish policy, assign responsibilities and prescribe procedures with respect to:

- (a) The production or disclosure of official information or records of the Department of Veterans Affairs (VA); and
- (b) The testimony of present or former VA personnel relating to any official information acquired by any individual as part of that individual's performance of official duties, or by virtue of that individual's official status, in federal, state or other legal proceedings covered by these regulations.

(Authority: 38 U.S.C. 501(a) and (b); 5 U.S.C. 301)

§ 14.801 Applicability.

(a) Sections 14.800 through 14.810 apply to:

(1) Contractors and subcontractors which undertake a VA activity or maintain VA records when the contract covering their actions provides that these regulations apply, as well as the personnel of contractors and subcontractors.

(2) All components of the Department, including Canteen Service, the Office of Inspector General, and all staff offices, services and administrations, and their personnel.

(b) Sections 14.800 through 14.810 do not apply to:

(1) Testimony or records provided in accordance with Office of Personnel Management regulations implementing 5 U.S.C. 6322.

(2)(i) Legal proceedings in which the Department of Veterans Affairs, the Secretary of Veterans Affairs or the United States is a party, is represented

or has a direct and substantial interest; or

(ii) Legal proceedings in which an individual or entity is a party for whom the United States is providing representation.

(3) Legal proceedings in which VA personnel are to testify while in leave or off-duty status as to matters which are purely personal and that do not arise out of, or relate in any way to, the personnel's official duties or to the functions and activities of the VA or the United States.

(4) Official comments on matters in legal proceedings, where appropriate.

(5) Disclosures, in the absence of a request or demand, of information or records by VA components, particularly the Office of Inspector General, to federal, state, local and foreign law enforcement or regulatory agencies.

(6) Congressional demands or requests for testimony or documents.

(7) Requests for, and release of, records under the Freedom of Information Act, 5 U.S.C. 552, and the Privacy Act, 5 U.S.C. 552a.

(8) Disclosures in child support and alimony proceedings under the authority of 42 U.S.C. 659 and regulations promulgated by the Office of Personnel Management implementing that section.

(9) Legal proceedings before or involving the VA concerning a claim or dispute as to the rights of a beneficiary or obligations or liabilities of the United States under any law or program administered by the Department of Veterans Affairs.

(10) Requests by a veteran or that veteran's representative for access to the veteran's records for use in an administrative or judicial claim for benefits administered by the Department of Veterans Affairs.

(11) Foreign legal proceedings covered by Department of State procedures governing the production of records or witnesses in response to requests or demands in connection with foreign legal proceedings.

(c) Sections 14.800 through 14.810 are not intended to, and do not:

(1) Waive the sovereign immunity of the United States;